IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 7586 of 2004(C)

AGAINST THE ORDER DATED 15/02/2003 IN IA 1940/2002 IN OS.49/2002 of MUNSIFF'S COURT,CHENGANNUR

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PETITIONER:

PRASANNA KUMARAN NAIR, KIDANGANNARETHU VEETTIL, ALA SOUTH MURI, ALA VILLAGE, CHENGANNUR, ALAPPUZHA.

BY ADV. SRI.P.VINODKUMAR

RESPONDENTS:

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1. VIJAYAKUMARI, ONAMPALLIL VEETTIL, ALA SOUTH MURI, ALA VILLAGE, CHENGANNUR.

2. C.R. NARAYANA PILLAI, ONAMPALLIL VEETTIL, ALA SOUTH MURI, ALA VILLAGE, CHENGANNUR.

3. ANIL KUMAR, ONAMPALLIL VEETTIL, ALA SOUTH MURI, ALA VILLAGE, CHENGANNUR.

4. ARUN KUMAR, ONAMPALLIL VEETTIL, ALA SOUTH MURI, ALA VILLAGE, CHENGANNUR.

BY ADV. SRI.K.GOPALAKRISHNA KURUP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.7586/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF PLAINT DT.11.3.02 FILED BY PETR. AND OTHERS AS OS.49/02 BEFORE MUNSIFF'S COURT, CHENGANNUR.

EXT.P2 – TRUE COPY OF I.A.1940/02 DT.12.12.02 FILED BY PETR. BEFORE DO.

EXT.P3 – TRUE COPY OF ORDER DT.15.2.03 IN I.A.1940/02 OF MUNSIFF'S COURT, CHENGANNUR.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.7586 OF 2004

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DATED THIS THE 20TH JUNE, 2007

J U D G M E N T

Ext.P3 order dismissing an application for amendment of the plaint is under challenge in this Writ Petition under Article 227 of the Constitution. Having regard to the submissions addressed before me by Sri.P.Vinodkumar, learned counsel for the petitioner and by Sri.K.Gopalakrishna Kurup, learned counsel for the respondents and having taken into account the provisions of Order VI Rule 17 C.P.C. and the judicial precedents which lay down the law as to the manner in which powers under Order VI Rule 17 are to be exercised, I feel that the view of the learned Munsiff that injustice will be caused to the defendants if the amendment is allowed is not correct. There will be inconvenience to the defendants. Considering that inconvenience, the learned Munsiff could have imposed terms on the petitioner.

2. Setting aside Ext.P3, I allow I.A.No.1940 of 2002 on condition that the petitioner pays a total amount of Rs.2000/- by way of costs; out of the above amount, Rs.1500/- shall be paid to the contesting respondents either directly or through their counsel in this Court and Rs.500/- shall be remitted by cash with the High Court Legal Services Committee. The payment/remittance shall be made within a period of

three weeks from today. Failing such payment/remittance, the impugned order will stand confirmed and the Writ Petition will stand dismissed. Once the amounts are paid and the order of amendment becomes operative, the learned Munsiff shall give an opportunity to the defendants-respondents to file additional written statement and formulate additional issues, if additional contentions are seen raised, and dispose of the suit in accordance with law.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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